

P. O. Box 260
Newark, NJ 07101

[REDACTED]

[REDACTED]

[REDACTED]

EO: Review

OCT 10 1984

Dear Applicant:

We have reviewed your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated as a Domestic Business Corporation on [REDACTED] under the laws of [REDACTED]. Your stated purposes are to advertise and promote employment of members for private duty; to assist registered nurses in their obtainment of private duty cases; to help patients find best qualified nurses; to educate members in new developments in nursing; to assist hospitals and student nurses with financial grants or other help, and the corporation shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which corporations may be incorporated under the [REDACTED] Business Corporation Law of [REDACTED], as amended.

Your activities consist of maintaining a telephone registry which serves the general public by informing those citizens who call in response to telephone advertisements the names and residences of registered nurses who are available for cases; securing group Blue Cross and Blue Shield coverage for members; inviting nurses to attend educational meetings; and occasionally giving donations to various charities.

Your sources of income have been dues, Blue Cross and Blue Shield payments, and money collected for bus trips and shows. Your expenses have been for Blue Cross and Blue Shield premiums and other miscellaneous operating expenses.

Membership is open to all nurses who are registered in [REDACTED] and who purchase one share of stock in your corporation.

Section 501(c)(3) of the Internal Revenue Code provides exemption for corporations, community chests, funds, or foundations, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office.

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Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides in part, that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes; and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides in part, an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, if, upon dissolution, such assets would, by reason of a provision in the organization's articles, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government.

Section 1.501(c)(3)-1(c)(1) of the Regulations provide that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(c)(2) of the Regulations provides an organization is not organized exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(i) of the Regulations provides that an organization is not organized or operated exclusively for any exempt purpose set forth in section 501(c)(3) of the Code unless it serves a public rather than a private interest.

Revenue Ruling 61-170, 1961-2 C.B. 112 provides that an association composed of professional private duty nurses and practical nurses which supports and operates a nurses' registry primarily to afford greater employment opportunities for its members is not entitled to exemption under section 501(c)(3) of the Code. It was determined that the organization was primarily engaged in the performance of personal services by operating an employment service principally for the benefit of its members. The Revenue Ruling also states that since the organization's purpose is to engage in a regular business of a kind ordinarily carried on for profit, the organization was not a business league described in section 501(c)(6) of the Code.

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Since your Articles of Incorporation do not limit your purposes to one or more purposes described in section 501(c)(3) or do not dedicate your assets to an exempt purpose, you are not organized exclusively for one or more purposes described in section 501(c)(3) of the Code.

We have determined that you are not engaged in activities which accomplish one or more of the purposes specified in section 501(c)(3) of the Code. Payments of dividends to shareholders as provided in your Bylaws constitutes inurement of net earnings to individuals.

Based on the evidence presented, we have determined that you are engaged primarily in the performance of personal services for the benefit of your members rather than the required public benefit.

We conclude that you are not organized exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code and Regulations thereunder. Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. Contributions to you are not deductible under section 170 of the Code.

You have the right to appeal this determination if you believe that it is incorrect. To appeal, please refer to the enclosed Publication 892.

If we do not hear from you within thirty days from the date of this letter, this determination will have become final.

Copies of this letter are being forwarded to the appropriate State officials as required by section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Encl. Pub. 892

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